

MANUEL PENA

U.S.P./Prison Complex
Reg. No.: 19265-069
P.O. Box 3900
Adelanto, CA 92301

United States District Court
500 PEARL STREET, ROOM #120
NEW YORK, NY. 10007-1312

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MANUEL PENA

Petitioner,

v.

United States of America
Plaintiff,

Case No.: 00CR 36 RMB

PETITIONER'S REQUEST FOR A
MODIFICATION/REDUCTION OF AN
IMPOSED TERM OF IMPRISONMENT
PURSUANT TO TITLE 18 U.S.C.
§3582(c)(2) AND U.S.S.G. §1B1.10

Comes Now, MANUEL PENA, the incarcerated, indigent and pro se Petitioner, and hereby moves this Honorable Court for an order granting a 2 level decrease from the Applicable Guideline range pursuant to Amendment 782 of the United States Sentencing Guidelines.

Petitioner was arrested for a violation of a "controlled substance offense". Petitioner is currently serving a LIFE sentence. Petitioner is at Criminal History Category , and offense level .

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The Petitioner relies on Title U.S.C. §3582(c)(2), and the United States Sentencing Guidelines for modification or reduction of sentence.

Petitioner contends that when a defendant is eligible for a reduction in the term of imprisonment and such a reduction is not excluded by the U.S. Sentencing Guidelines policy statement, a court must make two distinct determinations before deciding whether and to what extent to reduce a defendant's term of imprisonment under 18 U.S.C. §3582(c)(2). First, the court must recalculate the sentence under the amended U.S. Sentencing Guidelines.(Guidelines).

Second, a court must make before deciding whether and to what extent to reduce a defendant's term of imprisonment under 18 U.S.C. §3582(c)(2) is to decide whether, in its discretion, the court will elect to impose newly calculated sentence under the amended U.S. Sentencing Guidelines (Guidelines) or retain the original sentence. In making that decision, the court considers the factors listed in 18 U.S.C. §3553(a), to the extent with the Guidelines policy statement.

Title 18 U.S.C. §3582(c), gives the court discretionary authority to reduce the term of imprisonment portion of a defendant's sentence under certain circumstances. Section 3582(c)(2) provides in pertinent part:

- (c) The court may not modify a term of imprisonment once it has been imposed except that--...(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the sentencing commission pursuant to

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28 U.S.C. §994(o), upon motion by the defendant [...]..., the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission. 18 U.S.C. §3582(c)(2). The relevant United States Sentencing Guidelines (U.S.S.G.) policy statement here is U.S.S.G. §1B1.10, as amended by Amendment 782 and effective Nov. 1, 2014.

The United States Sentencing Guidelines §1B1.10 brings forth "reduction in term of imprisonment as a result of amended guideline range (policy statement)".

Pursuant to U.S.S.G. §1B1.10(2) Authority. (1) In general. In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual ---the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. §3582(c)(2). As required by 18 U.S.C. §3582(c)(2), any reduction in the defendant's term of imprisonment shall be consistent with this policy statement.

The Petitioner having committed an offense and being convicted of a "controlled substance offense". He respectfully requests that this Honorable Court use its discretion and depart downward 2 (two) levels from the applicable guidelines range.

Considering such reduction, the Petitioner would be facing a lower sentencing range. The Petitioner respectfully requests that this court grant a two level reduction.

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Respectfully submitted this 13th day of September 2015.

Manuel Pena
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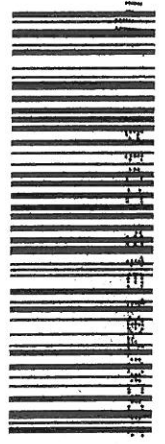
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Mr. Michael J. DeAngelis
#19265-0624

UNITED STATES PENITENTIARY
P.O. Box-3900

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UNITED STATES MAIL

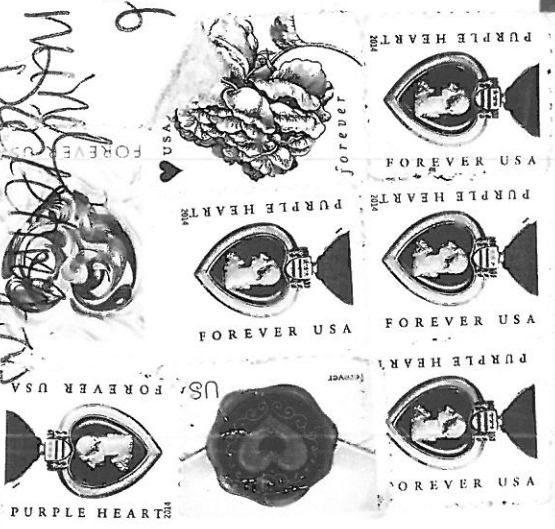


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JIMMY D. JAMES

UNITED STATES DISTRICT COURT

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